

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

THOMAS JAMES WALLACE,

Petitioner,

Case No. 12-15514

v.

HONORABLE GERSHWIN A. DRAIN

DEBRA SCUTT,

Respondent.

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**ORDER DENYING PETITIONER'S**  
**"MOTION FOR UNTIMELY FILING FINDING/DETERMINATION"**

This is a habeas corpus action under 28 U.S.C. § 2254. Petitioner filed his habeas petition on December 14, 2012, and on December 19, 2012, the Court ordered respondent Debra Scutt to file a responsive pleading and the state court record by March 25, 2013. See Order Requiring a Responsive Pleading, ECF No. 2. Respondent filed her answer to the petition on March 25, 2013, and on March 26, 2013, she filed the state court record.

Now pending before the Court is Petitioner's motion for a determination that Respondent failed to file the state court record in a timely manner. Petitioner seeks a default judgment because Respondent filed the state court record one day after the deadline set forth in the Court's order requiring a responsive pleading.

Petitioner is not entitled to a default judgment on the basis of Respondent's failure to file the record in a timely manner. Allen v. Perini, 424 F.2d 134, 138 (6th Cir. 1970). Accordingly, Petitioner's motion (ECF No. 8) is **DENIED**.

/s/Gershwin A Drain  
GERSHWIN A. DRAIN  
UNITED STATES DISTRICT JUDGE

Dated: December 13, 2013